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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

In re A.Z., a Person Coming
Under the Juvenile Court Law.

B291337
(Los Angeles County
Super. Ct. No.
17CCJP01472C)

LOS ANGELES COUNTY
DEPARTMENT OF
CHILDREN AND FAMILY
SERVICES,

Plaintiff and Respondent,

v.

CHRISTINA M.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of Los
Angeles County, Julie Fox Blackshaw, Judge. Affirmed.

Jamie A. Moran, under appointment by the Court of Appeal, for Defendant and Appellant.

Leslie A. Barry, under appointment by the Court of Appeal, for Respondent I.Z.

No appearance for Plaintiff and Respondent Los Angeles County Department of Children and Family Services.

I. INTRODUCTION

Mother Christina M. contends the juvenile court abused its discretion when it awarded full legal custody of A.Z. to A.Z.'s father I.Z. rather than granting joint legal custody to father and mother.¹ We affirm.

II. BACKGROUND

On October 31, 2017, the Los Angeles County Department of Children and Family Services (Department) filed a petition under Welfare and Institutions Code² section 300, subdivision (b) alleging that mother often left then nine-year-old A.Z. and her

¹ At places in her opening brief, mother purports also to appeal from the juvenile court's orders terminating jurisdiction over A.Z., awarding father physical custody, and awarding mother visitation. Mother does not provide arguments as to any of those orders.

² All statutory citations are to the Welfare and Institutions Code unless otherwise noted.

siblings³ alone and locked outside of the home for extended periods of time with no adult supervision, the children wore dirty clothes and had matted hair, the children had head lice, and the home was dirty and had no electricity. Mother's failure to provide appropriate care for and supervision of the children endangered their physical health and safety and placed them at risk of serious physical harm, damage, danger, and neglect.

The Department's Detention Report stated that the juvenile court in a prior dependency case sustained a petition alleging mother's and father's history of substance abuse and current use of methamphetamine placed the children at risk of physical and emotional harm and damage, terminated father's reunification services, and awarded mother custody of A.Z. On October 4, 2017, the Department received a referral stating that mother left the children with maternal grandmother, who was intoxicated every day; the children were not attending school; mother used crystal methamphetamine daily with the children in the home; the children stayed up all night and looked "run down"; and "a lot of guys" were "in and out" of mother's house. On October 6, 2017, the Department received a second referral that reported the children had missed 60 percent of the school year; when they attended, they were late; and the school had received several anonymous calls about mother's drug use and purported prostitution. A Department social worker met with the principal of the children's school and attempted, unsuccessfully, to meet with mother.

On October 10, 2017, the Department received a third referral concerning mother's care of the children, her drug use,

³ A.Z. has three sisters, then ages 11, 10, and two. Her siblings are not subjects of this appeal.

and her depression. Mother was seldom home, the home was not clean, and mother failed to attend to the children's needs or hygiene. The children were hungry and went door to door asking for food, money, milk, and diapers. There had been no electricity in the apartment for five weeks. The social worker was unable to contact the family.

On October 20, 2017, the Department received a fourth referral reporting mother's general neglect and emotional abuse of the children. The children played outside and in the pool without adult supervision, mother may have been using drugs, and mother and maternal grandmother had engaged in a physical altercation in the children's presence.

On October 23, 2017, the social worker spoke with the paternal grandmother. She reported that mother had not provided for the children in a long time. The children had very little structure or discipline. They had head lice and mother made no attempt to clean them. The children often wore dirty clothes and no underwear. Paternal grandmother reported that mother was "involved with gangs and drugs and other things." Paternal grandmother said the children had been very well coached not to disclose abuse or neglect to the Department or police.

On October 27, 2017, the social worker successfully contacted mother by telephone. The social worker informed mother that the Department had a removal order for the children and wanted to pick them up. Mother refused to state her whereabouts and hung up the telephone. The social worker left mother a voice mail message advising her that she needed to bring the children to the Department's office as soon as possible or to a November 1, 2017, juvenile court hearing.

The same day, mother called the social worker and informed her that the family was in Yuma, Arizona. Mother yelled that she was experiencing a “hardship” and the Department could not take her children due to the hardship. Mother refused to provide an address for the family. She said she would be in court on November 1, 2017, and hung up. Mother did not attend the November 1, 2017, hearing.

At the November 1, 2017, detention hearing, the juvenile court found a prima facie case for detaining A.Z., who was not present. It ordered A.Z. removed from mother’s custody and placed in the Department’s custody. Mother and father were granted monitored visits.

Mother appeared in court on November 2, 2017, and the detention hearing was continued to November 3, 2017. A.Z. was placed in shelter care. On November 3, 2017, the juvenile court set the matter for an adjudication hearing on November 29, 2017.

The Department’s November 29, 2017, Jurisdiction/Disposition Report stated that father told a social worker that his extensive criminal history had prevented him from spending more time with A.Z. Since his release from jail in 2016, he had been more committed to maintaining contact with A.Z. He stated that he had not used drugs for over five years. He completed a substance abuse treatment program in October 2016, and provided the Department with a letter of completion. Father agreed to take a drug test. The test was negative.

At the November 29 and December 1, 2017, jurisdiction hearing, the juvenile court sustained the petition. It found father to be nonoffending, ordered A.Z. released to him, and continued the disposition hearing to January 11, 2018.

At the January 11, 2018, disposition hearing, the juvenile court declared A.Z. a dependent and ordered her removed from mother's custody. The juvenile court ordered A.Z. released to father with the Department to provide family maintenance services to A.Z. and father. It ordered the Department to provide enhancement services to mother.⁴

Mother's case plan required her to take six random or on demand drug tests. If mother missed any test, or any test was positive, then she had to participate in a full drug rehabilitation program with random testing. Mother also was to participate in a parenting program; mental health counseling, including a psychiatric evaluation; and individual counseling to address case issues.

The Department's March 15, 2018, Progress Report stated that A.Z. continued to live with father. Father met A.Z.'s medical, educational, and emotional needs. Father provided A.Z. adequate care and supervision and a nurturing home environment. A.Z. was adjusting to her new school. She was excited about playing a part in the school's musical and enjoyed playing on the school's after-school softball team. Father had three negative random alcohol/drug tests.

Mother was not compliant with all aspects of her case plan. She was not participating in individual counseling, stating that her attorney told her she did not have to participate. On one occasion, mother did not drug test, claiming she did not have a California form of identification. On another occasion, mother appeared for a drug test, but claimed she could not provide a

⁴ Mother appealed from the juvenile court's jurisdictional and dispositional orders in case number B288636. On August 27, 2018, we dismissed the appeal as to A.Z.

sufficient urine sample. In her contacts with the social worker, mother was argumentative and displayed “uncollected thoughts.” Mother was cooperative during sessions of her parenting program, but displayed a “know it all attitude and [was] not applying to her daily life responsibilities.” Mother had attended seven of 16 sessions needed to complete the parenting program, having missed five sessions, none of which she had made up. Mother had not undergone a psychiatric evaluation. She also had not shown up for or had canceled several visits and was almost always late for visits she attended.

The July 5, 2018, report from the Court Appointed Special Advocate (CASA) for A.Z. stated that as of June 6, 2018, mother had canceled 44 percent of her planned visits. Mother was late to 56 percent of the visits she attended. A.Z. was upset when mother canceled visits or was late. A.Z. had requested not to attend several visits because, in part, she felt ignored during the visits—mother had brought gifts for A.Z.’s siblings and not A.Z. and had excluded A.Z. “even to the point of not bringing her in the visitation room.” Mother’s treatment of A.Z. during visits distressed A.Z. and caused her sleepless nights. Mother’s visits were moved from the Department’s office to a foster care office due to mother’s erratic behavior at the Department’s office.

A.Z. told the CASA that she wanted to remain permanently with father and paternal grandmother who lived with them. A.Z. loved mother and her sisters and wished to maintain close ties with her sisters. She felt unloved by mother when mother did not show up for visits and was afraid that mother would take her away from father and he would not be able to find her.

The Department’s July 12, 2018, Status Review Report for the six-month review hearing stated that A.Z. remained with

father. Father continued to meet A.Z.'s medical, educational, and emotional needs. He provided A.Z. adequate care and supervision and a nurturing home environment. Father was in full compliance with "court ordered activities." He had taken and passed four random or on demand drug tests and provided a certificate of completion for a parenting class.

A.Z. was reported to have adjusted well to her new school. She enjoyed participating in an after-school program's extracurricular activities, had participated in a school play, and had performed in a school talent show.

Mother had failed to participate in any "court ordered activities" despite the efforts of Department social workers. She was terminated from her parenting program for excessive absences, failed to take seven scheduled drug tests, failed to undergo a psychiatric evaluation, and failed to provide verification that she had participated in individual counseling. On several occasions, social workers attempted to speak with mother about court orders, but mother refused and quickly became agitated and combative. Mother's refusal to speak with the social workers and her erratic behavior and uncollected thoughts made it difficult for the social workers to address mother's case plan compliance. Mother refused to speak with the social workers unless her attorney was present and failed to keep the Department informed of her whereabouts.

Mother struggled to maintain consistent, timely, and healthy visits. For the most part, mother's visits were "chaotic." Mother discussed the case plan in front of the children and became agitated easily when reminded not to discuss the case. Mother disregarded the children's emotional well-being and engaged in combative, argumentative, and hostile behavior

towards Department staff despite the children's pleas for her to stop. On several occasions, a security guard had to intervene to "de-escalate the situation" or to end visits due to mother's failure to comply with directives. Nevertheless, mother appeared to love and care for her children. She brought food to the visits and spoke with the children about school and other activities. The report noted that A.Z. believed that mother "minimize[d]" her presence during visits and did not show her much attention.

In June 2018, mother completed a parenting program. In July 2018, she completed a 90-day substance abuse program and a parenting program and enrolled in an anger management program that would be completed in July 2019.

At the July 12, 2018, six-month review hearing, the juvenile court found that the conditions that justified the initial assumption of jurisdiction no longer existed and were not likely to exist if supervision was withdrawn. Accordingly, it terminated jurisdiction with a juvenile custody order awarding sole legal and physical custody to father, staying the order pending receipt of the custody order. The juvenile court granted mother monitored visitation. When the juvenile custody order was filed the next day, July 13, 2018, the juvenile court lifted the stay and terminated dependency jurisdiction.⁵

⁵ Mother prematurely filed her notice of appeal on July 12, 2018, the day the juvenile court entered its order, rather than on July 13, 2018, the day the order was filed and jurisdiction was terminated. We treat mother's notice of appeal as timely filed. (Cal. Rules of Court, rule 8.104(d)(1).)

III. DISCUSSION

Mother contends the juvenile court abused its discretion when it awarded father sole legal custody of A.Z. rather than awarding father and mother joint legal custody. The juvenile court did not err.

A. *Standard of Review*

“We normally review the juvenile court’s decision . . . to issue a custody (or ‘exit’) order pursuant to section 362.4 for abuse of discretion.” (*Bridget A. v. Superior Court* (2007) 148 Cal.App.4th 285, 300.) “[W]hen a court has made a custody determination in a dependency proceeding, “a reviewing court will not disturb that decision unless the trial court has exceeded the limits of legal discretion by making an arbitrary, capricious, or patently absurd determination [citations].” [Citations.] And we have recently warned: “The appropriate test for abuse of discretion is whether the trial court exceeded the bounds of reason. When two or more inferences can reasonably be deduced from the facts, the reviewing court has no authority to substitute its decision for that of the trial court.” (*In re Stephanie M.* (1994) 7 Cal.4th 295, 318-319.)

B. *Analysis*

“When a juvenile court terminates its jurisdiction over a dependent child, it is empowered to make “exit orders” regarding custody and visitation. [Citations.] Such orders become part of any family court proceeding concerning the same child and will

remain in effect until they are terminated or modified by the family court. [Citation.]’ [Citation.]” (*In re A.C.* (2011) 197 Cal.App.4th 796, 799.) In issuing an exit order under section 362.4, the juvenile court’s goal in assigning custody is to serve “the best interests of the child.” (*In re Jennifer R.* (1993) 14 Cal.App.4th 704, 712; *In re Nicholas H.* (2003) 112 Cal.App.4th 251, 268 [“When making a custody determination in any dependency case, the court’s focus and primary consideration must always be the best interests of the child”].)

According to mother, the juvenile court abused its discretion in awarding father sole legal custody because mother made “important progress in addressing the protective issues of the case” by completing a parenting class and an intensive substance abuse program, enrolling in an anger management class, and passing some drug tests. The exit order denying her any legal custody, mother argues, “unnecessarily prevents [her] from participating in [A.Z.’s] life.”

Appropriately focusing on the best interests of A.Z. (*In re Jennifer R.*, *supra*, 14 Cal.App.4th at p. 712; *In re Nicholas H.*, *supra*, 112 Cal.App.4th at p. 268) and not mother, the juvenile court did not abuse its discretion in awarding father full legal custody. Except for just before the six-month review hearing when mother completed parenting classes and a substance abuse program, mother’s participation in services was unsatisfactory. She did not submit to a psychiatric evaluation, refused to participate in individual counseling, and failed to take multiple drug tests. In addition, mother was combative, argumentative, and uncooperative with Department staff and displayed erratic behavior and uncollected thoughts. Mother also canceled or was late for several visits, causing A.Z. distress. When mother

visited, she minimized A.Z.'s presence and ignored her, causing A.Z. to feel unloved and to request not to attend several visits. Mother's conduct throughout the case made clear that her participation in important decisions related to A.Z.'s welfare would not be in A.Z.'s best interests. (*In re Jennifer R.*, *supra*, 14 Cal.App.4th at p. 713.)

Mother contends that "as juvenile dependency cases essentially become family court cases upon the issuance of an exit order such as the one at issue herein, it is important to look at the structures set forth under the Family Code regarding custody and visitation orders." However, as mother concedes, the juvenile court's custody order is governed by the Welfare and Institutions Code and not the Family Code. (See *In re Jennifer R.*, *supra*, 14 Cal.App.4th at pp. 711-713.)

IV. DISPOSITION

The order is affirmed.
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KIM, J.

We concur:

BAKER, Acting P. J.

MOOR, J.